

## **Chapter 1: General Provisions**

### **Article 1: Code Established**

#### *Section 1: City Ordinance Defined*

The Ordinances embraced in the following chapters, articles and sections shall constitute and be designated “Code of Ordinances of the City of Dunwoody, Georgia” and may be so cited.

### **Article 2: Definitions and Rules of Construction**

#### *Section 1: Applicability.*

In the construction of this Code and of all ordinances, the rules of construction and definitions set out in this section shall be observed. The rules of construction and definitions set out in this section shall not be applied to any section of this Code which contain any express provisions excluding such construction or where the subject matter or context of the section may be repugnant thereto.

#### *Section 2: Liberal construction; minimum requirements; overlapping provisions.*

- (a) The ordinary signification shall be applied to all words, except words of art or words connected with a particular trade or subject matter when they shall have the signification attached to them by experts in such trade or with reference to such subject matter.
- (b) In all interpretations the courts shall look diligently for the intention of the city council, keeping in view, at all times, the old law, the evil, and the remedy. Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.
- (c) All general provisions, terms, phrases, and expressions contained in this Code shall be liberally construed to carry out the full intention of the City Council. In the interpretation and application of any provision of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.
- (d) Where any provision of this Code imposes greater restrictions on the subject matter than the other provisions of this Code, the provisions imposing the greater restriction or regulation shall be deemed to be controlling. The specific provisions shall control over the general.

#### *Section 3: Terms Defined*

As consistent with the Charter, definitions shall be construed liberally in favor of the City.

*As soon as possible.* The term "as soon as possible" means within a reasonable time, having due regard to all the circumstances.

*County:* the word “county” shall mean DeKalb County, Georgia.

*City:* The word “City” refers to the City of Dunwoody, Georgia.

*Charter:* The word “Charter” refers to the enabling legislation creating a municipal charter for the City of Dunwoody, enacted as SB 82 during the General Session of the 2008 General Assembly.

*Computation of time.* When a number of days is prescribed for the exercise of any privilege or the discharge of any duty, the first and last day shall be counted. If the last day falls on Saturday or Sunday, the party having such privilege or duty shall have through the following Monday to exercise such privilege or to discharge the duty. When the last day prescribed for such action shall fall on a public or legal holiday as set forth in state law, the party having such privilege or duty shall have through the following business day to exercise such privilege or to discharge the duty. When the period of time prescribed is less than seven days, an intermediate Saturday, Sunday, and legal holiday shall be excluded in the computation.

*Code:* The word “Code” refers to the Code of Ordinances of the City of Dunwoody, Georgia.

*Council:* The word “Council” refers to the six Council members and the Mayor.

*Council Member:* The words “Council Member” refers to the individual members of the City Council, including the Mayor.

*Fire Department:* The term “Fire Department” shall refer to the DeKalb County Fire Department or the City of Dunwoody Fire Department, whichever provides services to the City of Dunwoody.

*Gender:* A word importing one (1) gender shall extend and be applied to the other genders, except where inappropriate.

*Keeper, proprietor.* The terms “keeper” and “proprietor” shall mean and include persons as the term “person” is defined herein, whether acting by themselves or through an agent or employee.

*Month.* The word “month” shall mean a calendar month.

*Number.* A word importing only the singular number may extend and be applied to several persons or things as well as to one (1) person or thing.

*Oath.* The word “oath” shall include an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed.”

*Officials:* The name or title of any officer or department shall be read as though the words “of the City of Dunwoody” were added thereto.

*O.C.G.A.:* The abbreviation “O.C.G.A.” refers to the Official Code of Georgia Annotated.

*Owner.* The word “owner” applies to a building or land and shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or person in possession under a bond for title.

*Person:* The word “person” shall extend and be applied to firms, partnerships, associations, organizations, and bodies political and corporate, or any combination thereof, as well as to individuals.

*Personal property.* The words “personal property” shall include every species of property except real property, as herein defined.

*Police:* The term “Police” shall refer to the Police Department or Police Chief of DeKalb County or of the City of Dunwoody, whichever is serving as the police force for the City.

*Preceding, following.* The words “preceding” and “following” shall mean next before and next after respectively.

*Property.* The word “property” shall include real and personal property.

*Public place.* The term “public place” shall mean any park, cemetery, shopping center, schoolyard, or open space adjacent thereto, or any area available and accessible to the public, regardless of whether privately or publicly owned.

*Real Property.* The words “real property” shall include lands, tenements, and hereditaments.

*Shall, may.* The term “shall” is mandatory; the term “may” is permissive.

*Sidewalk.* The word “sidewalk” shall mean any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians, excluding parkways.

*Signature or subscription:* The terms “signature” and “subscription” include a mark when the person cannot write.

*State:* The words “the State” or “this State” shall mean the State of Georgia.

*Street:* The word “street” shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge, and the approaches thereto and area owned or dedicated as public right of way, within the City.

*Tenant, occupant.* The terms “tenant” and “occupant,” applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or a part of, such building or land, either alone or with others.

*Tense.* Words used in the past or present tense include the future as well as the past and present.

*Title of officer or official.* Whenever the title of an officer is given, it shall be construed as though the words “of the City of Dunwoody” were added.

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*Week.* The word “week” shall mean seven (7) calendar days unless otherwise specified.

*Written, in writing.* The terms “written” and “in writing” shall be construed to include any representation of words, letters, or figures, whether by printing or otherwise.

*Year.* The word “year” shall mean a calendar year.

#### *Section 4: Non-exclusivity*

Terms not defined by this section may be defined elsewhere in the Code.

### **Article 3: Violations**

#### *Section 1: Punishment*

- (a) Unless specified elsewhere in the Code, any violation of this Code shall be punishable up to a maximum penalty allowed by state law or the City charter.
- (b) All fines shall be paid into the City Treasury.
- (c) Community service may be substituted for the fine with the rate of hourly work set to that of the Federal Minimum Wage.
- (d) If it is deemed by a court of competent jurisdiction that a punishment imposed under this section conflicts with the laws of Georgia, then State law applies to that particular punishment.
- (e) In addition to the penalties provided in subsection (a), any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be abated by the City, as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

### **Article 4: Miscellaneous Provisions**

#### *Section 1: Exercise of Powers*

The powers of the City may be exercised, as provided by the charter, by the City, and by the parties with whom the City contracts for municipal services.

#### *Section 2: Severability*

It is declared to be the intention of the Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, or section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code.

### *Section 3: Catchlines of Sections, Effect of Notes and References*

- (a) The catchlines of the several sections and subsections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections or subsections, nor as any part of the section or subsection, nor unless expressly so provided shall they be so deemed when any of such sections or subsections, including the catchlines, are amended or reenacted.
- (b) The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are intended merely to indicate the source of matter contained in the section. Editor's notes, Charter references and state law references and other references that appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.
- (c) All references to chapters, articles, divisions, subdivisions, or sections are to chapters, articles, divisions, subdivisions, or sections of this Code, unless otherwise specified.
- (d) References in city forms, documents, citations, and regulations to city ordinances codified in this Code shall be construed to apply to the corresponding provisions contained within this Code.

### *Section 4: Effect of Repeal of Ordinances*

- (a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.
- (b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect.

### *Section 5: Amendments to Code; effect of new ordinances; amendatory language*

- (a) All ordinances passed subsequent to the passage of the ordinances originally Included herein, which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and added hereto. In the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby.
- (b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section of The Code of the City of Dunwoody, Georgia is hereby amended to read as follows: \_\_\_\_\_." The new provision may then be set out in full as desired.
- (c) In the event a new section not theretofore existing in the Code is to be added, the following language may be used: "That The Code of the City of Dunwoody, Georgia is hereby amended by adding a section (or article or chapter) to be numbered \_\_\_\_\_, which said section (or article or chapter) reads as follows: \_\_\_\_\_." The new section (or article or chapter) may then be set out in full as desired.

(d) All sections, articles, chapters, or provisions desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.

#### *Section 6: Supplementation of Code*

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the Council. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the Council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete. The new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement. Charter amendments may be included in like manner.

(b) In the preparation of a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

- (i) Organize the ordinance material into appropriate subdivisions;
- (ii) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (iii) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (iv) Change the words “this ordinance” or words of the same meaning to “this chapter,” “this article,” “this division,” etc., as the case may be, or to “sections \_\_\_\_\_ through \_\_\_\_\_” (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated into the Code); and
- (v) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but, in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

#### *Section 7: Provisions Considered as Continuation of Existing Ordinances*

The provisions appearing in this Code, so far as they are substantially the same as ordinances existing at the time of the effective date of this Code, shall be considered continuations thereof and not as new enactments.

*Section 8: Altering Code, Ordinance or Other Public Document*

- (a) It shall be unlawful for any person in the city to change or amend by additions or deletions, any part of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.
- (b) It shall be unlawful for any person to deface, mutilate, or in any other manner alter any ordinance book or minute book, or any notice posted by the city for the benefit of the public, or any other document or record of the municipal government of the city.

*Section 9: Certain Ordinances Not Affected by Code*

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following:

- (a) Any rates, fees or charges consistent with this Code;
- (b) Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds for the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city;
- (c) Any ordinance consistent with this Code prescribing traffic regulations for specific locations, such as prescribing through streets, parking limitations, parking prohibitions, one-way traffic or limitations on loads of vehicles or loading zones;
- (d) Any ordinance consistent with this Code fixing salaries of, or providing policies and programs for, providing retirement, disability or death benefits for, officials, officers or employees of the city;
- (e) Any budget ordinance or appropriation ordinance; any ordinance levying any tax;
- (f) Any right or franchise granted by any ordinance or resolution;
- (g) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening or vacating any street or public way in the city;
- (h) Any ordinance establishing and prescribing the street grades of any street in the city;
- (i) Any ordinance providing for local improvements or assessing taxes for local improvements;
- (j) Any ordinance dedicating or accepting any plat or subdivision in the city;
- (k) Any ordinance establishing or changing the boundary of the city;
- (l) Any zoning ordinance, use permit or any ordinance regulating subdivisions or any ordinance regulating signs or any ordinance regulating building design standards;
- (m) Any resolution of the city not in conflict with this Code;

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.